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Attorneys for Plaintiff
JUDY TIMMERMAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUDY TIMMERMAN, an individual,)	Case No.
)	
Plaintiff,)	VERIFIED COMPLAINT FOR
)	DAMAGES
v.)	
)	JURY TRIAL DEMANDED
GILA LLC dba MSB GOVERNMENT)	
SERVICES aka MUNICIPAL SERVICES)	
BUREAU, a Texas Limited Liability)	
Company,)	
Defendants.)	
)	

I. INTRODUCTION

1. Defendant made repeated telephone calls to Plaintiff's residential telephone, in connection with an attempt to collect a debt and without her consent.

2. Defendant used automated dialing systems, and pre-recorded messages to telephone Plaintiff's residential phone in violation of the Telephone Consumer Protection Act, and the Rosenthal Fair Debt Collection Practices Act.

1 3. Plaintiff suffered physical and emotional injury, including severe and substantial
2 emotional distress, and actual damages including but not limited to, anxiety, emotional distress,
3 stress, frustration, loss of concentration, amongst other injuries.

4 4. This is an action for damages brought by a consumer to redress the Defendant's
5 violations of California's Rosenthal Fair Debt Collection Practices Act, Civil Code Section 1788
6 et seq. (hereinafter, "state act"), and related common law claims, which prohibit debt collectors
7 from engaging in abusive, deceptive and unfair practices in their collection of consumer debts.
8 In 2000, the California legislature incorporated most of the Federal Fair Debt Collection
9 Practices Act (15 U.S.C. § 1692, et seq.) into the California FDCPA. See Civil Code §1788.17.
10

11 5. According to 15 U.S.C. § 1692:

12 There is abundant evidence of the use of abusive,
13 deceptive, and unfair debt collection practices
14 by many debt collectors. Abusive debt collection
15 practices contribute to the number of personal
16 bankruptcies, to marital instability, to the loss of
17 jobs, and to **invasions of individual privacy**.

18 II. JURISDICTION AND VENUE

19 6. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331,
20 and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. § 1367. Venue
21 in this District is proper in that Defendant transacts business here and the conduct complained of
22 occurred here.

23 III. PARTIES

24 7. Plaintiff JUDY TIMMERMAN, (hereinafter "Plaintiff") is a natural person
25 residing in Contra Costa County in the State of California.

1 8. On information and belief, Defendant GILA LLC dba MSB GOVERNMENT
2 SERVICES aka MUNICIPAL SERVICES BUREAU is a Texas limited liability company doing
3 business in California (hereinafter "GILA"). GILA, in the ordinary course of business, regularly
4 attempts to collect debts on its own behalf.

5 9. Defendant GILA is a "debt collector" as defined by California Civil Code §
6 1788.2.

7 10. At all times mentioned herein, each Defendant was the agent or employee of each
8 of the other Defendant(s) and was acting within the course and scope of such agency or
9 employment. The Defendant is jointly and severally liable to the Plaintiff for its conduct.
10 Defendant approved, authorized and/or ratified the wrongful acts and omissions herein.

11 11. Any reference hereinafter to "Defendant" or "GILA", without further
12 qualification, is meant by Plaintiff to refer to such Defendant named above.
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15 **IV. FIRST CAUSE OF ACTION – ROSENTHAL FDCPA**

16 12. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs
17 above as though fully stated herein.

18 13. The foregoing acts and omissions by this Defendant with respect to Plaintiff in its
19 attempt to collect a consumer debt constitutes numerous and multiple unfair, deceptive,
20 misleading practices made unlawful pursuant to the California Rosenthal Fair Debt Collection
21 Practices Act, including but not limited to Civil Code §§ 1788.11(d), 1788.12(b) and 1788.17 by
22 violating 15 U.S.C. §§ 1692b(2) and (3), 1692d and d(5).
23

24 14. Plaintiff is entitled to recover statutory damages, actual damages, reasonable
25 attorney's fees and costs.

1 **V. SECOND CAUSE OF ACTION – INTRUSION UPON SECLUSION**

2 15. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs
3 above as though fully stated herein.

4 16. The foregoing acts of Defendant as described herein constitute an invasion of the
5 Plaintiff's privacy and an intrusion upon her right of seclusion.

6 17. Plaintiff has a common law right to, and a reasonable expectation of privacy, her
7 home and place of employment, and in regard to her private affairs.

8 18. Defendant's abusive and improper collection practices in the collection of this
9 debt constituted a substantial invasion upon Plaintiff's seclusion and privacy, and would be
10 highly offensive to a reasonable person.

11 19. Defendant intended to cause emotional distress and/or engaged in reckless
12 disregard of the probability of causing Plaintiff's emotional distress.

13 20. As a proximate result of Defendant's conduct, Plaintiff has suffered damages in an
14 amount to be determined by proof and a finder of fact at trial.

15 21. Defendant acted with oppression, fraud, and/or malice, thereby entitling Plaintiff
16 to punitive damages in an amount according to proof and a finder of fact at trial.

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19 **VI. THIRD CAUSE OF ACTION – TCPA**

20 22. Plaintiff repeats, re-alleges and incorporates by reference all other paragraphs.

21 23. At all times relevant to this complaint, the Plaintiff was a "person" as defined by
22 the TCPA 47 U.S.C. § 153(39).
23
24
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1 24. At all times relevant to this complaint, the Defendant has owned, operated, and or
2 controlled "customer premises equipment" as defined by the TCPA 47 U.S.C. § 153(16) that
3 originated, routed, and/or terminated telecommunications.

4 25. The Defendant at all times relevant to the complaint herein engages in
5 "telecommunications" defined by the TCPA U.S.C. § 153(50).

6 26. The Defendant at all times relevant to the complaint herein engages in "interstate
7 communications" by the TCPA U.S.C. § 153(28).

8 27. At all times relevant to this complaint, the Defendant has used, controlled, and/or
9 operated "wire communications" as defined by the TCPA 47 U.S.C. § 153(59), that existed as
10 instrumentalities of interstate and intrastate commerce.

11 28. At all times relevant to this complaint, the Defendant has used, controlled, and/or
12 operated "automatic telephone dialing systems" as defined by the TCPA 47 U.S.C. § 227(a)(1)
13 and 47 C.F.R. § 64.1200(f)(2).

14 29. Defendant violated the TCPA, 47 U.S.C. § 227(b)(1)(B), by using an automatic
15 telephone dialing system to telephone Plaintiff's residential phone in an attempt to collect an
16 alleged debt.

17 30. Defendant frequently made calls to Plaintiff's residential phone using an
18 automatic telephone dialing system (including an automated dialing machine, dialer and auto-
19 dialer) and/or an artificial or prerecorded voice.

20 31. Defendant violated the Telephone Consumer Protection Act ("TCPA") 47 U.S.C.
21 § 227(b)(1)(B), by using an automatic telephone dialing system to telephone a residential phone,
22 without Plaintiff's consent.

23 32. Defendant's violations were willful and knowing.
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25

1 33. As a result of these violations of the TCPA, Defendant is liable to Plaintiff for
2 statutory damages, including treble damages.

3 34. Defendant engaged in willful and knowing violations of the Telephone Consumer
4 Protection Act ("TCPA") 47 U.S.C. § 227(b)(1)(A).

5 35. Defendant's acts were willful, intentional and knowing.

6 36. Defendant acted with oppression, fraud, and/or malice, thereby entitled Plaintiff
7 to punitive damages in an amount according to proof and a finder of fact at trial.

8 37. Plaintiff is entitled to recover actual and punitive damages.
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11 **VII. FOURTH CAUSE OF ACTION - VIOLATIONS OF THE FAIR DEBT**
12 **COLLECTION PRACTICES ACT**
 15 U.S.C. § 1692 et seq.

13 38. Plaintiff repeats, re-alleges and incorporates by reference all other paragraphs.

14 39. The foregoing acts and omissions of Defendant constitute numerous and multiple
15 violations of the FDCPA, including but not limited to §§ 1692(b)(3), 1692c, 1692c(b), and
16 1692d.

17 40. As a result of each and every Defendant's violations of the FDCPA, Plaintiff is
18 entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an
19 amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees
20 and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.
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23 **VIII. FIFTH CAUSE OF ACTION – NEGLIGENCE**

24 41. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs
25 above as though fully stated therein.

1 42. Defendant's outrageous, abusive and intrusive acts as described herein constituted
2 negligent infliction of emotional distress.

3 43. Plaintiff suffered (1) serious emotional distress, (2) actually and proximately
4 caused by (3) wrongful conduct (4) by a defendant who should have foreseen that the conduct
5 would cause such distress.

6 44. Defendant's conduct as described herein was wrongful conduct in that the
7 Defendant conducted its business in an abusive, oppressive, and harassing manner.

8 45. Defendants' actions and omissions as described herein constitute negligence in
9 that Defendant owed Plaintiff a duty of reasonable care in the collection of the alleged debt, and
10 use of the telephone in an attempt to collect such debts, said duties were breached, and said
11 breach was the proximate cause of damages suffered by Plaintiff.

12 46. Defendant owed a duty to refrain from outrageous and unlawful calls in
13 connection with their attempts to collect a debt.

14 47. Defendant's actions and omissions demonstrate a conscious disregard of the rights
15 or safety of others, and constitute despicable conduct that subjected Plaintiff to cruel and unjust
16 hardship in conscious disregards of her rights.

17 48. Plaintiff suffered damages due to Defendant's actions in an amount to be
18 determined at trial.

19 49. Plaintiff is entitled to punitive damages for the actions and omissions of the
20 Defendant as described herein.

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23 **IX. SIXTH CAUSE OF ACTION – NEGLIGENT TRAINING AND SUPERVISION**

24 50. Plaintiff incorporates by reference the above paragraphs as though fully stated
25 herein below.

1 51. Defendant negligently trained and supervised their employees and agents as to the
2 performance of their job duties and as a result of such negligent instruction and supervision, the
3 employees/agents while carrying out their job duties caused injury and damage to Plaintiff.

4 52. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has
5 suffered damages in an amount to be determined at trial.

6 53. Defendant acted with oppression, and/or malice, thereby entitled Plaintiff to
7 punitive damages in an amount to be determined at trial. Defendant acted in a despicable
8 manner and acted with a conscious disregard to the rights of Plaintiff.

9 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
10 Defendants for the following:

- 11
- 12 A. Statutory and actual damages pursuant to California Civil Code § 1788 et
 - 13 seq.;
 - 14 B. Costs and reasonable attorney's fees pursuant to Civil Code § 1788 et seq.;
 - 15 C. Actual and punitive damages;
 - 16 D. Award statutory damages in the amount of \$500.00 for each violation of
 - 17 the TCPA against all of the Defendants, and/or treble damages for
 - 18 each willful or knowing violation of the TCPA pursuant to 47 U.S.C.
 - 19 §227(b)(3)(B);
 - 20 E. Actual damages pursuant to 15 U.S.C. §1692k(a)(1);
 - 21 F. Statutory damages of \$1,000.00, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
 - 22 G. Costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. §
 - 23 1692k(a)(3); and
 - 24

25 ///

H. For such other and further relief as may be just and proper.

DATED: May 19, 2015

Respectfully submitted,

DELTA LAW GROUP

BY: 

JIM G. PRICE

Attorneys for Plaintiff

JUDY TIMMERMAN

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff demands trial by jury in this action.

DATED: May 19, 2015

DELTA LAW GROUP

BY: 

JIM G. PRICE

Attorneys for Plaintiff

JUDY TIMMERMAN

VERIFICATION

I, JUDY TIMMERMAN, declare:

I am the Plaintiff in this action. I have read the foregoing document entitled: **VERIFIED COMPLAINT FOR DAMAGES** and know the contents thereof. The same is true of my own knowledge, except as to those matters stated therein on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 16 day of May, 2015, at Oakley, California.


JUDY TIMMERMAN